

Personnel Files



*What should be kept in a personnel file?
What items should be filed separately?
Who should have access to these files?
How long should records be kept?*



No federal or state law requires an employer to maintain personnel records; however, various federal and state laws mandate that certain records be kept. For organizational purposes as well as legal protection, you should keep separate, up-to-date personnel files. The chances of becoming involved in legal actions related to hiring, supervision or firing decrease when personnel records are maintained correctly.

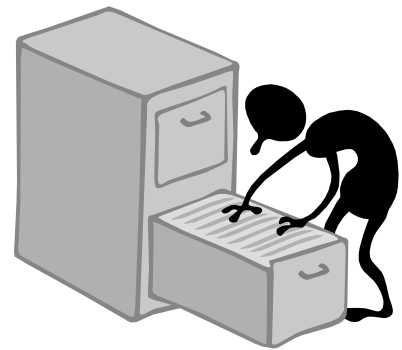
What to Keep in the Basic Personnel File

1. Employment related records, such as

- Job descriptions
- Employment application and resume
- Test documents used by an employer to make employment decisions
- Reference checks
- College transcripts
- Signed acknowledgements

2. Records related to

- Hiring
- Promotion or demotion
- Transfer or layoff
- Rates of pay and other forms of compensation
- General training records



3. Records related to other employment practices:

- Letters of recognition
- Disciplinary notices or documents
- Performance evaluations
- Exit interviews
- Termination records

*"Running a company is easy when you don't know how,
but very difficult when you do."*

Price Pritchett

The Following Records Should be Maintained in Separate Locked Files



Medical and Insurance Records

The Americans with Disabilities Act (ADA) requires employers to keep all medical records separate. Medical records including physical examinations, medical leaves, workers' compensation claims and drug and alcohol testing.

Equal Employment Opportunity MT Human Rights Laws

In order to minimize claims of discrimination, it is important to keep source documents that identify protected classes in a separate file. Protected classes include race, national origin, creed, sex, physical or mental disability, marital status, age and political ideas (state, county or city governments).

Immigration (I-9) Forms

It is recommended that these forms be maintained chronologically by year in a separate file as this reduces the opportunity for an auditor to pursue and investigate unrelated information.

Safety Training Records

OSHA may audit a company's safety training records. Again, keeping this information in a separate file will limit the auditor from investigating other information in the personnel file

Miscellaneous

Documents related to internal/external investigations and litigation should be maintained separately. Also, file child support/garnishment documents and veteran status records separately.

Safety and Health Records



The federal Occupational Safety and Health Administration (OSHA) added more businesses to its list of high-risk industries required to keep detailed injury and illness records. You qualify if your industry's rate of lost workdays to injuries is more than 75% of the national average.

Call OSHA, Billings Office:
1-406-247-7494 for more information

NOTE: Companies which fail to keep required injury and illnesses records are facing stiffer fines and penalties.

Who should have access to each type of file?

There is no law in Montana which requires employers to allow employees access to their personnel files; however, collective bargaining agreements and individual personnel policies may provide for employee access.

Create policies that identify who has access to personnel records and for what reasons. Consider providing access to the employee, human resources staff, supervisors, managers, and regulatory agencies. Always balance freedom of information with the right to privacy laws. Keep personnel records in locked cabinets.

If you don't allow employees access to their records, you may want to consider why. Is it because your records are poorly maintained? Are there hidden secrets or illegal information in the file? Do you trust your employees? Do your employees trust you?

Ultimately, if legal problems develop, an employee will be able to see his personnel file because it is discoverable during litigation between employee (usually ex-employee) and employer. Remember, in the legal process...

if it isn't documented, it didn't happen...which can also mean...it happened exactly as documented by the employee if you have no records.